

**Introduced by Senator Murray**

December 6, 2004

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An act to add Chapter 4.5 (commencing with Section 6400) to Division 7 of Title 1 of the Government Code, relating to state government.

**LEGISLATIVE COUNSEL'S DIGEST**

SB 4, as introduced, Murray. The California Public Performance Facilities Authority Act.

Existing law authorizes a public agency or entity created pursuant to a joint powers agreement by 2 or more public agencies to, among other things, make and enter contracts, acquire, construct, manage, maintain, or operate any building, works or improvements, hold or dispose of property, or incur debts, liabilities or obligations for specified public purposes. Existing law also authorizes the public agency or entity to issue revenue bonds for acquiring or constructing a coliseum, a stadium, a sports arena, or a sports pavilion or other building for holding sports events, athletic contests, contests of skill, exhibitions, spectacles, and other public meetings.

This bill would enact the California Public Performance Facilities Authority Act and create the California Public Performance Facilities Authority in state government. The bill would provide for a board of directors composed of 9 appointed members with the power to, among other things, acquire, construct, manage, maintain, or operate a facility, as defined, including, but not limited to, a coliseum, stadium, sports arena, theater, performance hall, or sports pavilion. The bill would also authorize the authority to sell premium seat licenses, as defined, and naming and sponsorship rights, and to issue revenue bonds and other forms of indebtedness for these purposes, subject to specified conditions.

This bill would exempt certain projects undertaken by the authority from the California Environmental Quality Act, subject to specified conditions. The bill would authorize the authority to enter into agreements with other state or public agencies to operate a facility for the general recreational purposes of a city or county.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

*The people of the State of California do enact as follows:*

SECTION 1. Chapter 4.5 (commencing with Section 6400) is added to Division 7 of Title 1 of the Government Code, to read:

CHAPTER 4.5. CALIFORNIA PUBLIC PERFORMANCE  
FACILITIES AUTHORITY ACT

Article 1. Title and Definitions

6400. This chapter shall be known and may be cited as the California Public Performance Facilities Authority Act.

6401. As used in this chapter, the following definitions shall apply:

(a) "Authority" means the California Public Performance Facilities Authority.

(b) "Board" means the board of directors of the authority.

(c) "Facility" includes all of the following:

(1) Coliseums, stadiums, arenas, pavilions, theaters, performance halls, or other structures or buildings for holding athletic events or other events, performances, and gatherings, including, but not limited to, professional or amateur baseball, football, and basketball, automobile racing, musical, dramatic, artistic, or cultural performances or events, social events, and other public meetings, fairs, or public events.

(2) Practice fields and related areas that are part of a facility specified in paragraph (1), where professional or amateur sports teams may practice.

(3) Property that is part of, adjacent to, or in some other manner directly connected with a facility specified in paragraphs (1) and (2), including, but not limited to, all of the following:

1 (A) Offices, parking lots and garages, access roads, streets,  
2 intersections, highway interchanges, pedestrian walkways,  
3 tunnels, bridges, transportation facilities, monuments,  
4 restaurants, stores, and other facilities providing goods and  
5 services to persons attending performances, meetings, contests,  
6 gatherings, or events at a facility.

7 (B) Other property or structures, including all fixtures,  
8 furnishings, and appurtenances, directly associated with a  
9 facility.

10 (C) Facility related landscaping, parks, and open spaces.

11 (D) Equipment and systems necessary to support a facility or  
12 necessary to deliver services to or from the facility, including,  
13 but not limited to, telecommunications and computer equipment  
14 and systems.

15 (d) “Premium seat license” means a license that grants a right  
16 to purchase various classes of tickets for specific seat locations,  
17 including the right to transfer or sell seats and other privileges  
18 related to ticket purchases and attendance at the facility.

19  
20 Article 2. California Public Performance Facilities Authority

21  
22 6402. The California Public Performance Facilities Authority  
23 is hereby established in state government.

24 6403. (a) The authority shall be administered by a board of  
25 directors composed of nine members appointed pursuant to  
26 subdivision (b) and shall conduct its business in accordance with  
27 this chapter.

28 (b) The members of the board shall be individuals with  
29 knowledge or expertise, whether by experience or training, in the  
30 fields of commercial development, entertainment, sports,  
31 agriculture, the arts, or other areas consistent with the purposes  
32 of this chapter, and shall include all of the following:

33 (1) Five members appointed by the Governor.

34 (2) Two members appointed by the President pro Tempore of  
35 the Senate.

36 (3) Two members appointed by the Speaker of the Assembly.

37 (c) The term of a board member shall be four years.

38 (d) Any vacancy in the membership of the board shall not  
39 affect the powers of the board and shall be filled in the same  
40 manner as the original appointment.

(e) The chair of the board shall be elected by a majority of the members of the board at the first official meeting of the board.

6404. (a) Five members of the board shall constitute a quorum to conduct business, but the board may establish a lesser quorum for conducting hearings. The board may establish by majority vote any other rules for the conduct of the board's business, if the rules are not inconsistent with this chapter or other provisions of law.

(b) The board may hold hearings, sit and act at designated times and places, administer oaths, take testimony, and receive evidence as the board considers advisable to carry out its duties.

(c) Witnesses requested to appear before the board may be paid the same fees as are paid to witnesses pursuant to the Code of Civil Procedure. The per diem and mileage allowances for witnesses shall be paid from funds appropriated to the board.

(d) The board may secure directly from any state or local agency information the board considers necessary to carry out its duties. Upon the request of the board, the head of a department or agency shall furnish information to the board.

6405. (a) (1) Except as provided in subdivision (b), members of the board shall be compensated at a rate equal to the daily equivalent of the per diem and mileage rate for state executive officers when engaged in the performance of their official duties.

(2) Members of the board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of state agencies while away from their homes or regular places of business in the performance of service for the board.

(b) All members of the board who serve as officers or employees of the state or a local government, shall serve without compensation in addition to that received for those services.

### Article 3. Powers and Duties

6406. The authority may exercise all rights and powers, expressed or implied, necessary to carry out the purposes and intent of this chapter and may do all of the following in that regard:

(a) Sue and be sued in its own name.

1 (b) (1) Acquire, construct, manage, maintain, or operate any  
2 facility or improvement described in subdivision (c) of Section  
3 6401.

4 (2) The authority may exercise the power of eminent domain  
5 to acquire property for the purposes of constructing or improving  
6 a facility under this chapter.

7 (3) Except as provided in this chapter, a facility or  
8 improvement constructed pursuant to this chapter shall be subject  
9 to laws applicable to state-owned facilities.

10 (c) Hold, manage, occupy, dispose of, convey, encumber, and  
11 create leasehold interests in property for the benefit of the  
12 authority.

13 (d) Contract with agents and employ employees, define their  
14 qualifications and duties, and provide compensation for the  
15 performance of their duties.

16 (e) Employ counsel.

17 (f) Establish and enforce rules and regulations for the  
18 administration of the authority and its property.

19 (g) Enter into joint exercise of powers agreements pursuant to  
20 Chapter 5 (commencing with Section 6500) of Division 7 of Title  
21 1.

22 (h) Contract with any other public agency for any services  
23 necessary to carry out the purposes of this chapter.

24 (i) (1) Notwithstanding any other provision of state law or  
25 local ordinance, sell directly or through an agent or agents, upon  
26 terms to be fixed by the authority, premium seat licenses, facility  
27 naming rights, or sponsorship rights to raise funds for facility  
28 construction, in addition to funds raised pursuant to Article 4  
29 (commencing with Section 6410).

30 (2) Upon completion of a facility, the authority may continue  
31 to sell premium seat licenses, facility naming rights, or  
32 sponsorship rights.

33 (j) Impose a facilities fee on tickets sold at a facility financed  
34 by the authority, which shall be applied to the indebtedness  
35 associated with the facility, and the administrative costs of the  
36 authority.

37 (k) Incur debts, liabilities, or obligations that shall not be  
38 considered the debts, liabilities, or obligations of the state.

39 6407. (a) Subject to subdivision (b), the authority shall  
40 operate, maintain, and preserve a facility financed pursuant to

1 this chapter in good repair and working order, and shall operate  
2 the facility in an efficient and economical manner.

3 (b) (1) Notwithstanding subdivision (a), the authority may  
4 lease or rent concessions, lease or rent the facility, or otherwise  
5 provide for the operation of the facility.

6 (2) In addition to any agreement described in paragraph (1),  
7 the authority may enter into an agreement with another state  
8 agency pursuant to Section 11256 or a public agency as defined  
9 in Section 22009.01 for the purpose of operating a facility for the  
10 general recreational purposes of a city or county.

11 6408. Excess revenues received pursuant to this chapter shall  
12 not be available for any other state expense, but shall be retained  
13 by the authority for its administrative expenses.

14 6409. (a) Notwithstanding Sections 21080 and 21081 of the  
15 Public Resources Code, the board of directors of the authority  
16 may, by resolution, determine at a noticed public hearing that the  
17 adoption of a plan for the construction of a facility or facilities  
18 pursuant to this chapter is not subject to the California  
19 Environmental Quality Act (Division 13 (commencing with  
20 Section 21000) of the Public Resources Code), if the proposed  
21 facility or facilities are to be built on the property of an existing  
22 public facility or as a replacement of, or improvement to, an  
23 existing facility. Any other proposal for the construction of a  
24 proposed facility under this chapter, which may have a  
25 significant effect on the environment, shall be subject to the  
26 California Environmental Quality Act. The environmental  
27 document for such a proposal shall include an analysis and  
28 mitigation of potential cumulative impacts that otherwise will not  
29 be known until an environmental impact report for the proposal  
30 is certified.

31 (b) (1) The notice of the public hearing required pursuant to  
32 subdivision (a) shall include the date, time, and place of the  
33 hearing, a brief description of the proposal and its location, the  
34 date when notice will be provided pursuant to Section 21092 of  
35 the Public Resources Code, and the address where copies of the  
36 notice of exemption are available for review.

37 (2) The notice shall be given to all organizations that, and  
38 individuals who, have previously requested notice pursuant to the  
39 California Environmental Quality Act, and shall be given by  
40 publication, no fewer times than is required pursuant to Section

6061, by the public agency in a newspaper of general circulation in the area affected by the proposed construction project.

(d) If the board determines, pursuant to subdivision (a), that the adoption of a plan to construct a facility or facilities is not subject to the California Environmental Quality Act, the authority shall prepare and certify an environmental impact report for the plan within 18 months after the effective date of the resolution adopting the plan. An environmental impact report prepared and certified for a specific plan or other comprehensive land use plan for the project area shall satisfy the requirement of this subdivision.

#### Article 4. Issuance of Bonds and Indebtedness

6410. In addition to other powers, the authority may issue revenue bonds pursuant to this chapter to pay the cost and expenses of acquiring or constructing a facility or of projects or programs associated with the facility.

6411. (a) An indenture providing the terms and conditions for the issuance of the revenue bonds and the covenants relating to the bonds shall be approved by resolution adopted by a majority of the board. The indenture shall describe or state the revenues and funds from which the bonds shall be payable. The funds or revenues shall include the revenues derived from the operation of the facility for which the bond proceeds are used or expended and any other revenues derived from the facility.

(b) The principal and interest of the revenue bonds shall be payable as follows:

(1) First, out of the revenue derived from the operation of the facility for which the bond proceeds were or are to be used or expended or any other revenues derived from the facility, including facilities fees imposed pursuant to subdivision (j) of Section 6406.

(2) (A) Second, from other revenues, including existing funds, of the authority that are described or stated as security for the bonds in the indenture in accordance with this section.

(B) Notwithstanding subparagraph (A), no revenue derived from any other facility owned by the authority shall be applied to payment of principal or interest, or any related cost, of the bonds, nor stated as security for the bonds.

1     6412. The indenture authorizing the issuance of the revenue  
2 bonds shall provide the denomination or denominations of the  
3 bonds, the medium of payment of principal and interest, the place  
4 of payment of the bonds and interest, which may be in or outside  
5 the state, the form of the bonds, including recitals of regularity of  
6 the proceedings for the issuance of the bonds, and of interest  
7 coupons pertaining to the bonds, the form, denominations and  
8 conditions of any temporary bonds or interim certificates, and the  
9 manual and facsimile signatures to be attached to the bonds or  
10 certificates, one signature upon which shall be manual, and the  
11 manual or facsimile signature to be affixed to the interest  
12 coupons.

13     6413. The indenture may provide the terms and conditions  
14 under which the revenue bonds may be paid, redeemed before  
15 maturity, including the premiums, if any, to be payable upon  
16 bonds redeemed prior to maturity, exchanged, registered,  
17 transferred, and negotiated. No bond shall be redeemable prior to  
18 maturity unless a statement substantially to that effect is  
19 contained in the bond.

20     6414. The indenture may also provide for all of the following:

21     (a) Issuance of a duplicate in the manner and upon the terms  
22 and conditions the authority determines, in the event any bond,  
23 temporary bond, coupon or interim certificate of any issue is lost,  
24 destroyed, or mutilated.

25     (b) A covenant or provision against entering into any  
26 agreement that impairs the operation of the facility or any part of  
27 it necessary to secure adequate revenues to pay the principal and  
28 interest of the bonds or that otherwise would impair the rights of  
29 the bondholders with respect to the revenues or the operation of  
30 the facility.

31     (c) Events of default and the terms upon which the bonds may  
32 be declared due before maturity and the terms upon which that  
33 declaration and its consequences may be waived.

34     (d) The rights, liabilities, powers, and duties arising upon the  
35 authority's breach of any covenants, conditions, or obligations of  
36 the indenture.

37     (e) A fiscal agent and the deposit of funds with that agent.

38     6415. The indenture authorizing the issuance of the revenue  
39 bonds and all resolutions or orders in the proceeding for the  
40 issuance of the bonds shall constitute a contract with the holders



1 of the bonds. That contract may be enforced by any holder by  
2 mandamus, injunction, or any applicable legal action, suit,  
3 proceeding, or other remedy.

4 6416. In the indenture authorizing the issuance of the revenue  
5 bonds, the authority may also fix additional terms and conditions  
6 and may in any article, section, or clause make any provision or  
7 covenant it deems necessary or desirable to facilitate the issuance  
8 and sale of the bonds or for the protection or security of the  
9 holders of the bonds, including, but not limited to, provision for  
10 any or all of the matters stated in this article.

11 6417. (a) The revenue bonds shall be issued and sold as the  
12 authority may determine and for not less than par and accrued  
13 interest to date of delivery, except that, in the case of bonds for a  
14 facility, the bonds may be sold at less than par if the authority  
15 determines that the sale will result in more favorable terms for  
16 the bonds.

17 (b) The proceeds from the sale, except premium and accrued  
18 interest, that shall be paid into the bond service or other fund  
19 designated or established for the payment of the principal and  
20 interest of the bonds, shall be paid into the construction fund or  
21 other fund designated by the indenture authorizing the issuance  
22 of the bonds and shall be applied exclusively to the objects and  
23 purposes set forth in the indenture, including all incidental or  
24 related expenses and the payment of interest on the bonds during  
25 the period of study and construction of the facility and for a  
26 period not to exceed 12 months after completion of the  
27 construction.

28 6418. The authority may incur other forms of indebtedness,  
29 including, but not limited to, notes, warrants, equity interests, and  
30 leasehold interests pursuant to this chapter, subject to  
31 authorization by a resolution adopted by a majority of the board  
32 at a regularly scheduled meeting. This indebtedness may be  
33 secured by a pledge, with the power of sale, of all or any part of  
34 bonds authorized under this section or issued under this chapter.

35 6419. All bonds and the interest and income from the bonds  
36 are exempt from all taxation in this state.

37 6420. (a) The authority may provide for the issuance, sale, or  
38 exchange of refunding bonds for the purpose of redeeming or  
39 retiring any revenue bonds issued by the authority and any other  
40 indebtedness incurred by the authority. All provisions of this

chapter applicable to the issuance of revenue bonds are applicable to the funding or refunding bonds and to the issuance, sale, or exchange.

(b) Funding or refunding bonds may be issued in a principal amount sufficient to provide funds for the payment of all of the following:

(1) All bonds to be funded or refunded by the funding or refunding bonds.

(2) All expenses incident to the calling, retiring, or paying of the outstanding bonds and the issuance of the funding or refunding bonds, including the costs of issuing the refunding bonds.

(3) Interest upon the funding or refunding bonds from the date of sale to the date of payment of the bonds to be funded or refunded out of the proceeds of the sale or the date upon which the bonds to be funded or refunded will be paid pursuant to the call or agreement with the holders of the bonds.

(4) Any premium necessary in the calling or retiring of the outstanding bonds and the interest accruing on them to the date of the call or retirement.

6421. Any bonds issued under this chapter shall be payable within not more than 40 years from the date of issue.

6422. Neither the revenue bonds issued under this chapter, the contracts or obligations entered into to carry out the purposes for which bonds are issued, payable in whole or in part from the proceeds of the bonds, nor any other form of indebtedness incurred by the authority, shall constitute a debt, liability, or obligation of the state. Any bond or other evidence of indebtedness issued pursuant to this chapter shall state this provision on its face.

#### Article 5. Construction of Chapter

6423. This chapter shall be liberally construed to effectuate its purposes.

6424. If any provision of this chapter or the application of any provision of this chapter in any circumstance to any person, city, county, or district, the state, or any agency or subdivision of the state, is held invalid, that invalidity shall not affect other provisions or applications of this chapter that may be given effect

1 without the invalid provision or application of the invalid  
2 provision, and to this end the provisions of this chapter are  
3 severable.

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